

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5478 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?

No

CHELANI PARAKHANJI RAJPUT

Versus

STATET OF GUJARAT

Appearance:

MR PK JANI for Petitioner
Ms. Harsha Desani, Asst. Govt. Pleader, for Respondent
Nos. 1, 2 and 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 19/12/96

ORAL JUDGEMENT

Rule. Service of rule is waived by Ms. Harsha
Devani, learned Assistant Government Pleader.

2. Heard. The petitioner held licence under the

Gujarat Essential Articles (Licencing, Control and Stock Declaration) Order, 1981. The Inspector of Civil Supplies Department visited the petitioner's place and finding some procedural irregularities he issued a show-cause notice. The petitioner gave explanation on 28th February 1995 to the District Civil Supplies Officer who, by his order dated 13th March 1995, cancelled the licence and confiscated the petitioner deposit. The petitioner carried the matter in Appeal No. 6 of 1995 before the District Collector, Mehsana who, by his order dated 9th August 1995, remanded the matter with a direction to provide proper opportunity to the petitioner of being heard. Again, the lower authority passed the same order resulting in the petitioner preferring Appeal No. 38 of 1995. Initially the learned Collector stayed the order. On 18th May 1996 he dismissed the appeal. The petitioner carried the matter in revision before the State Government under Clause 12 of the Essential Articles Control Order. However, the Deputy Secretary being the revisional authority, by his order dated 21st June 1996, rejected the application and confirmed the orders passed by the lower authorities. That is how the petitioner is before this Court challenging the last mentioned order passed by the revisional authority.

3. The short submission made on behalf of the petitioner is that the revisional authority has not applied his mind to the quantum of penalty imposed upon the petitioner and has also not sought the explanation of the petitioner on the quantum of penalty. A reference in this connection has been made to a decision of this Court in the case of M/s. Arvindkumar & Brothers v. State of Gujarat & Ors. reported in 1995(1) G.L.H. 833. Para 5 of the judgment would read as under:

It has been contended that the order of the district supply officer and confirmed by respondent No.2 is invalid and illegal, stating that there is non-application of mind on the point as to whether there was a fit case for confiscation of the entire quantity of foodgrains seized from the premises of the petitioner by the respondents.

4. Having heard the learned AGP on this point, I am of the opinion that the matter requires reconsideration at the hands of the revisional authority insofar as the quantum of penalty is concerned. The impugned order passed by the revisional authority is therefore set aside and the matter is remanded to the said authority for considering the question of penalty and deciding the same

after hearing the petitioner in accordance with law as expeditiously as possible preferably within a period of 6 weeks from the date of receipt of the writ of this direction. Rule made absolute only in the aforesaid terms.
